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**Remarks**

Claims 1-21 were pending in the Application and subject to a Restriction Requirement. This Election Elects Claims 1-14 with Traverse.

**Election/Restriction**

The following is a statement of the Restriction requirement from the Office Action:

**Election/Restrictions**

- I. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-14, drawn to a lithium electrolyte, classified in class 252, subclass 519.2.
  - II. Claims 15-20, drawn to a lithium battery and method of enhancing a lithium battery, classified in class 429, subclass 338.
  - III. Claim 21, drawn to  $\text{LiBF}_2\text{C}_2\text{O}_4$ , classified in class 423, subclass 1+.

**Response**

Applicant Elects Claims 1-14, drawn to a lithium electrolyte, classified in class 252, with Traverse.

**Election/Restriction**

In addition, the Examiner has issued the following Election requirement:

Upon election of either Groups I or II, the following election of species is required:

- a. Applicant is required to elect an ultimate species for the non-aqueous solvent;
- b. Applicant is required to elect an ultimate species for alkali metal electrolyte salt;
- c. Applicant is required to elect an ultimate species for the additive salt;

**Response**

Applicant Elects

- a. a mixture of PC-EC-EMC (Claim 8) as the ultimate species for the non-aqueous solvent;
- b. a combination of  $\text{LiPF}_6$  and  $\text{LiBF}_4$  (Claim 6) as the ultimate species for alkali metal electrolyte salt; and
- c. a combination of lithium bis(oxalate) borate ( $\text{LiB}(\text{C}_2\text{O}_4)_2$ ) and lithium oxalyldifluoroborate ( $\text{LiBF}_2\text{C}_2\text{O}_4$ ) as the additive salt (Claim 3)

The following Claims are readable upon Applicant's Elected species: Claims 1, 2, 3, 4, 6, 7, 8, and 13.

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### Traverse

Applicant respectfully Traverses the requirement to Elect between Group I and Group II since Claim 15 in Group II is drawn to a lithium battery which includes the electrolyte of Claim 1, which must be searched in order to search Claim 1 in Group I; Claims 16 through 18 Claims a lithium battery in which the improvement is "an additive salt disposed in said electrolyte, said additive salt comprising an alkali metal salt of a mixed anhydride of oxalic acid and boric acid," which must be searched in order to search Claim 1 in Group I; and the method Claims of Claims 19-20 includes the step of "disposing an additive salt in said electrolyte, said additive salt comprising an alkali metal salt of a mixed anhydride of oxalic acid and boric acid," which must be searched in order to search Claim 1. If, in searching Claim 1, the Examiner fails to find reference to "a salt mixture, said salt mixture comprising an alkali metal electrolyte salt and an additive salt having an anion of a mixed anhydride of oxalic acid and boric acid," then, by definition, since such a salt mixture is a limitation of Claims 15-20, a search of Claims 1-20 may be made without serious burden to the Examiner given the existing requirement to search Elected Claim 1.

Under 35 U.S.C. §121 "two or more independent and distinct inventions . . . in one Application may . . . be restricted to one of the inventions." Inventions are "independent" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "distinct" means that "two or more subjects as disclosed are related . . . but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification;
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803) (emphasis added). Here Claims 1-20 may be searched without serious burden.

Moreover, with regard to Claim 21, the Examiner would also be able to Examine the Claim to the specific compound lithium oxalyldifluoroborate,  $\text{LiBF}_2\text{C}_2\text{O}_4$  without any serious burden. The compound has either been disclosed or it has not.

In addition, if Applicant has correctly construed the intent of the Restriction Requirement, Applicant was required to Elect one species of Electrolyte salt from Claim

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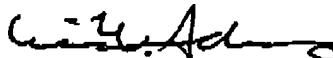
6 and has Elected a combination of  $\text{LiPF}_6$  and  $\text{LiBF}_4$ . Applicant, however, respectfully traverses the requirement to Elect one alkali metal salt since the use of any of these salts as listed in Claim 6 would be an obvious variant one over the other.

### Summary

Applicant Elects with Traverse Claims 1-14 Drawn to a lithium electrolyte, classified in class 252, subclass 519.2; however, Applicant suggests that the Restriction Requirement should be Withdrawn and Claims 15-20, Drawn to a lithium battery and method of enhancing a lithium battery, classified in class 429, subclass 338 and Claim 21, Drawn to  $\text{LiBF}_2\text{C}_2\text{O}_4$ , classified in class 423, subclass 1+ should also be Examined on the merits.

Respectfully submitted,

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DATE

  
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